

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MOLLY CRAMER,)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:22-cv-131
)	Judge Stephanie L. Haines
)	
NETFLIX, INC. and)	
ROYAL GOODE PRODUCTIONS, LLC,)	
)	
Defendants.)	
)	

**DEFENDANTS' MOTION TO DISMISS COMPLAINT
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendants Netflix Inc. (“Netflix”) and Royal Goode Productions, LLC (“RGP”) (collectively, the “Defendants”), by and through their counsel, respectfully submit this motion to dismiss the Complaint filed by the plaintiff Molly Cramer (the “Plaintiff” or “Cramer”). The Motion is based on the Complaint, this Motion, the Brief in Support of this Motion, the accompanying Declaration of Russell Smith, Exhibit A attached to the Declaration, the concurrently filed Request for Judicial Notice, such other pleadings, records and files in this action, all matters of which judicial notice may be taken, and such other evidence and/or arguments as the Court allows.

This Motion is made pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. As set forth in the accompanying Brief in Support of this Motion, the Plaintiff’s copyright infringement claim fails because the fleeting, 2.2-second use of the Plaintiff’s copyrighted work in a transformative manner as part of commentary, criticism, and reporting in a biographical work comes under the Copyright Act’s protection of fair use.

For the foregoing reasons, and those more fully set forth in the Defendants' accompanying Brief in Support of the Motion, the Defendants respectfully request that the Court grant their motion and dismiss the Complaint, with prejudice.

Dated: December 22, 2022

Respectfully Submitted,

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/s/ Russell Smith
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